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ABSTRACT

The purpose of this policy report is to bring coherence to discussions about school reform and to encourage policymakers to use a consistent metric when judging whether reform proposals are serving the needs of children and the nation. The current confusion and policy debates over what is a public school--brought about by recent educational legislation--creates problems for policymakers, the paper contends. It presents a list of key questions to help guide the thinking and focus of policymakers and educators. What goals are we pursuing? Why do we want children to attend schools? To what extent do we want to insist upon a common educational purpose of all children? How should we apportion responsibility for each child's education between the state and the family? Who should be permitted to provide schooling? How actively should the state regulate providers? Will profit-seeking individuals and firms be permitted to run schools or to manage schools for others? What obligations should schools have to ensure opportunity to all students? Are schools obliged to treat all students equally, or are they permitted to enroll or sort students as they see fit? What components of schooling should we consider to be public? (Contains 12 endnotes.) (WFA)

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Making Sense of the "Public" in Public Education

by Frederick M. Hess

What is a "public" school? That question looms large over the national debate about school reform. In light of the Supreme Court's *Zelman v. Simmons-Harris* decision, the No Child Left Behind Act's provisions mandating creation of public choice options for children in low-performing schools, and the proliferation of charter schooling and tuition tax credit plans, it is time for policymakers to rethink what is public and private in education.

Historically, defenders of the public purpose in education have off-handedly labeled their opponents or proposed reforms as "anti-public education." While this tactic has long been used as a blanket defense for the status quo, it is becoming less relevant to teaching or learning and serves primarily to stifle practical discussion about how to balance the community, familial, and national interests in improving schooling for all our children. Amidst widespread support for public school choice plans, explosive growth in charter schooling, and the Supreme Court's ruling that voucher programs pass constitutional muster, there is growing recognition that it may be possible to serve public purposes and cultivate civic virtues in places other than conventional state-run schools.¹ Policymakers of various ideological stripes are seeking ways to use this insight to enhance education for all of America's children. As we seek to tackle today's educational challenges, we need to think carefully about how to provide schooling that is consistent with our shared heritage of liberty and community.² This paper offers a framework for negotiating this thorny conversation as we consider the various ways we provide education, whether through conventional district-run schools, charter schooling, school vouchers, tuition tax credits, for-profit operators, public-school choice, home schooling, or anything else. The hard-and-fast lines

we have drawn between *public* and *private* are much more blurry and less useful than we pretend.

The Public and the Private in Schooling

The debate over charter schools is an example in which both critics and proponents seek the high ground by defining themselves as defenders of public education. A Department of Education official recently told me that charter schools are unique among forms of school choice because "they are public schools." Shortly thereafter, a superintendent mentioned his concern that charter schools are "a greater threat to public schooling than are school vouchers" because "charter schoolers are having success passing their private schools off as public schools." Meanwhile, a respected scholar off-handedly said that she would find charter schooling acceptable so long as it "fostered the values of public education."

These statements (interesting primarily because they are unexceptional) suggest a lack of clarity in our thinking about K-12 education. The result is that debates over educational choice and privatization tend to devolve into arguments about whether various proposals are consistent with the "public schooling," instead of focusing on the questions of what our children require and how we can best meet their needs.

When we say "public school," we generally mean state-sponsored schools that are characterized by a reliance on public funds and by formal state oversight.³ In common usage, however, the phrase public schooling implies much more. It resonates with vague notions of democracy, legitimacy, equal opportunity, nondiscrimination, and shared values. We forget

that these notions are not always implicit in government-run schools, a fact readily illustrated by state-run schools in totalitarian states or those that operated under Jim Crow laws in the American south. In the case of the contemporary United States, some researchers have argued that private schools may do a better job than public schools of embodying and promoting public values such as tolerance and civic virtue.⁴ Others have pointed out that our public schools have been, and continue to be, characterized by inequities in funding and service provisions as well as in how students are assigned to programs like special education or gifted education.⁵

In fact, we are too often willing to turn a blind eye when the practices of traditional public schools do not comport with the proclaimed public interest. At the same time, we are wary of schools that do not fit neatly into our traditional conception of public schooling, whether or not they educate and socialize children in ways we find desirable. The case of charter school enrollment can help to illustrate this point.

Advocates of charter schools frequently make the case that these schools are not allowed to choose among applicants and must admit students based on a lottery if they are oversubscribed. They trumpet this point because they know selective enrollment policies would attract accusations of discriminatory intent. However, the contention that this restriction ensures the public character of charter schools is flawed on two counts.

First, charter schools can significantly shape their student bodies, for reasons both good and bad—through selective recruiting, targeted advertising, and gentle suasion. Whether we deem charter schools public is pretty much irrelevant to whether they should be permitted to engage in such behavior. What matters is determining how much and when this is acceptable and how to ensure that schools don't overstep those boundaries.

Second, and much more significant, the standard these proponents are attempting to meet is a mythical one. Conventional public schools do not equably teach whoever shows up and do not offer all students equal access to opportunities or programs. For example,

students labeled as gifted are enrolled in some special programs and classes, students labeled with special needs in others; advanced placement and international baccalaureate students have their own courses, while low-performing students are often steered into vocational or bottom-track classes. Moreover, the fact that public school enrollment is driven by geographical residence ensures significant race- and class-based segregation. To condemn charter schooling for failing to meet a mythical standard poses the risk that we could condemn a promising alternative and opt for an inferior status quo, merely because we are judging the two with different rulers.

Double standards of this kind make no sense. After all, John Dewey, philosopher and champion of public education, observed nearly a century ago that private institutions may serve public ends and that public institutions may fail to do so.⁶

The Shared Notion of the Public Good

Defenders of the status quo are often able to successfully attack choice-based reforms as "anti-public education" because Americans by and large believe that the public has some legitimate responsibility to ensure all children receive an adequate and appropriate education. Even such noted public critics as libertarians John Stuart Mill and Milton Friedman have always conceded there is some component of public good to education, and have argued for state funding and/or monitoring of educational mastery to ensure that all children are adequately served.⁷ However, this agreement poses a new challenge by demanding that we first determine what constitutes an adequate education and then consider, separately, how it ought to be provided. It is important to recognize that, in multiple sectors, legislators routinely craft policies intended to address public needs, but then rely upon a variety of public agencies and private firms to execute these policies. In such cases, we generally accept that a public service is being rendered regardless of the agent providing the service. For instance, we typically consider

community bus services as public even if operated by a private vendor.

Such reflection suggests the poverty of current conversations about what it is that makes public schools *public*. Simple-minded proclamations on the topic have encouraged would-be reformers and their critics to squabble over the symbolic banner of "public education" while shortchanging the public's substantive concerns.⁸

Three Conceptions of "Public"

There are three useful ways to understand what it means for educational services to be public: We'll call them the procedural, the input, and the outcome approaches. None of these is perfect, and each poses particular issues, but there are grave weaknesses with our rhetorical reliance on the procedural approach. Thinking more carefully about the input and outcome approaches will help provide a more useful frame for policy.

Traditionally, we call public schools those in which policymaking and oversight are the responsibility of governmental bodies, such as a local school board. Nongovernmental providers of educational services, such as independent schools, educational management organizations (EMOs), and home-schoolers tend to be labeled as nonpublic. Under this procedural approach, the only question is whether a formal political body is making decisions regarding service provision. The need of legislators (or, for instance, a mayor responsible for appointing board members) to stand for election provides a forum for all participating voters and interests to influence policy and ensures some responsiveness to the larger public. On the other hand, independent schools or home-schoolers are focused on serving only those immediately involved in the educative relationship. They have little need to address broader community preferences and few structures in place for receiving the opinions.

There are two problems with relying upon the procedural characterization. First, what level of involvement must the government have for us to regard a service as publicly provided? In the course of executing legislative directives, the Department of Defense, NASA, the EPA,

the Department of Education, and nearly every other state, federal, or local government agency contracts with for-profit firms to support, provide, and evaluate service delivery. In the course of these tasks, firms are required to make decisions, both large and small, that influence the distribution of publicly provided goods and services. Yet we still tend to regard the services as public because they were initiated in response to a public directive. In short, it is not clear when a government-directed activity ceases to be public. For instance, if a for-profit voucher school is operating in accord with state-directed educational purposes, could it be viewed as analogous to a for-profit textbook maker, curriculum provider, or consultant who supplies services to a conventional school district? The answer is ambiguous.

Second, the procedural approach pays no heed to content or outcomes. It makes no allowance for the possibility that public agencies may make decisions that are discriminatory, repressive, or otherwise fail to serve the public interest. It is crucial to recognize that being government-run does not necessarily equate to serving the public good. Such has been our experience with segregated schools, many housing redevelopment projects, and oversight bodies that tolerate self-serving behavior.

Another approach to defining the term public is to focus on inputs. By this metric, any activity that involves money collected by the government should be deemed public because it involves the collection and expenditure of tax dollars. However, this is a far more nebulous distinction than we sometimes suppose. For instance, schools in the Milwaukee school voucher program receive funding from the state of Wisconsin. Does this mean that perhaps they ought to be regarded as *de facto* public schools on that basis alone? Similarly, many Wisconsin dairy farmers receive federal subsidies—does this mean they ought to be regarded as public enterprises? Or, recognizing that Wisconsin public school districts and public universities seek millions of dollars in private contributions on an annual basis, should we perhaps regard these as private institutions?

A particular complication is the often-unrecognized fact that many traditional public schools currently charge families money. For

instance, although hard figures are notoriously hard to gather, as of fall 2002, the families of more than 2,300 Indiana public school students were paying fees of up to \$6,000 or more in order to enroll their children in a public school in another school district.⁹ Public schools and districts routinely charge tuition or fees of families that wish to participate in inter-district public choice plans or who have a child participating in a variety of extracurricular or academic activities. Do these charges mean that these schools or districts are no longer public, or that they are somewhat less so than public schools without such fees? If district schools are collecting tuition or accepting private donations from families, it can become difficult to draw a sharp distinction between public and private funding.

Tax credits may further blur the line between taxation and privately directed contributions. For instance, cities routinely offer tax abatements in order to lure private businesses. Does this public support mean these businesses are somehow less private? Arizona, Pennsylvania, and Florida have adopted ambitious tax credit plans that permit taxpayers to direct their tax dollars to a scholarship fund for vouchers for low-income children. Essentially, taxpayers can choose to direct some percentage of public resources to private schools. At that point, should we regard the money as public or not? The point is that we are apparently not comfortable with consistently applying the notion that merely receiving public money makes an enterprise public.

A third approach focuses on whether an organization seeks to fulfill a public purpose, regardless of how the service is paid for or whether it is provided by a governmental body. For instance, private charities such as the Red Cross or the Salvation Army seek to advance public ends by working to alleviate community poverty, hunger, illiteracy, and other ills. These efforts are public in the sense that they seek to benefit the broader community, even though they are conducted by private groups or individuals unaccountable to formal public bodies.

Today, a vast array of nonprofit entities routinely serves public needs, while for-profit entities are necessarily taken with private

concerns. With traditional public schools increasingly relying on for-profit vendors to provide meals, run buses, perform maintenance, and even run educational programs, debates about the ethics of for-profit providers have become heated. Somewhat lost in these disputes is that public schools have always done business with for-profit providers of textbooks and teaching supplies, bought buses and janitorial supplies from for-profit providers, and hired for-profit builders to construct facilities.

New proposals for privatization bring profit-seeking vendors closer to the teaching and learning core, and in some cases permit them to assume control of that core. This development raises important questions about where the public sphere ends and the private one begins. For instance, for-profit firms such as Edison Schools are now managing scores of traditional public schools across the nation. Does this make these schools somehow "less public"? By what metric should we determine whether these schools are more or less public than local nonprofit Catholic schools?

Which Community Is "The Public"?

Opponents of private school vouchers, charter schools, or home schooling often argue that these educational approaches are too focused on the narrow needs of self-selected groups of children and families, rather than the broader public interests. But it is worth considering the breadth of the public interests that we want schools to serve. Our federal system allows decisions to be made at a number of levels ranging from national to local. The array of interests involved narrows as decisions become more localized, because communities tend to be more homogeneous than states or the nation. Thus, the tradition of local control in education ensures that many decisions regarding traditional public schools reflect a relatively narrow array of interests.

In recent years, policy decisions have shifted a growing amount of control to the states and the federal government. Moving decision making to a higher level enhances the array of in-

terests reflected, but means that the results are less tailored to the needs and values of any one community. When we think it is important that a broader swath of people have influence on a decision, the locus of decision making should be at a more comprehensive level. However, it is not clear that the decision-making process at one level or another ought to be considered more public. To make that claim would be to suggest that mayoral elections or town meetings are less public than presidential elections or state legislative debates. There will almost always be greater homogeneity in self-selected communities, especially in the case of schooling. Consequently, charter schools and magnet schools will attract educators and families that share certain beliefs and views regarding education. For obvious reasons, schools of choice generally do not attract families that disapprove of the school program. This means that school-level decisions over policy and practice will represent only one segment of the community. In some sense, this would seem to make schools of choice—whether private, charter, or public choice schools—less democratic and less public.¹⁰ On the other hand, schools of choice enjoy noticeably higher rates of support and participation among families, and frequently, neighborhood groups that constitute the school community.¹¹ Such involvement could cause us to regard these schools as more democratic and public.

In truth, even ardent proponents of democratic participation do not suggest that every voice needs or deserves input into every decision. Local decision making, school-site councils, and decentralization are premised on the notion that children benefit when parents and educators are given more say in shaping their community schools. An array of prominent education reformers, including Deborah Meier and Anthony Bryk, have argued that largely autonomous schools where faculty and students can forge a shared local vision are more educationally effective than schools governed by more traditional bureaucratic oversight. Given such considerations, it is not self-evident just how much participation and voice, and at what level, we ought to insist various public groups have in shaping policy and practice.

However, to the extent that we deem these concerns vital, it seems clear they should apply equally to all schools—whether run by government or otherwise.

Making Sense of “Public Education”

I have not sought here to provide the “correct” definition of public schooling or to instruct policymakers as to the merits of charter schooling or tuition tax credits. The purpose of this report is to bring coherence to our discussions about school reform and to encourage policymakers to use a consistent metric when judging whether reform proposals are serving the needs of our children and our nation. The question should not be: “Does this fit our traditional conception of how schools operate?” We should instead ask: “Given our shared objectives, what will help educate our children—as individuals and as citizens—most effectively?”

The current confusion can play a pernicious role in policymaking. More than one legislator has supported charter schooling because “they’re public schools” or opposed it because “those schools are basically private schools.” This type of distinction is unhelpful and stifles discussion of larger and more important questions. Children would be better served if discourse focused more on what we want schools to do and how to best achieve those goals, and less on jostling to be on the side of public education. There are five key questions, or sets of questions, that can help guide our thinking and that may help us focus on the questions we care about.

First, what goals are we pursuing? Why do we want children to attend schools? To what extent do we want to insist upon a common educational purpose for all children? Many of the current conflicts are the result of fundamental disagreements about what schools should do, and it is utopian to imagine that policymakers will ever settle, once and for all, precisely what the public purposes of schooling ought to be. Children will be better served if we understand and debate these differences

openly, rather than trying to finesse them by creating institutional structures that stagger under the burden of a multitude of covert compromises.

Second, how should we apportion responsibility for each child's education between the state and the family? There can be fundamental tensions between familial rights and the claims of the state. Some choice schemes dramatically tilt this balance in favor of the parent, others propose a much more measured shift. Some curricular and pedagogical reforms advocated by professional educators would greatly strengthen the hand of school personnel, while home schooling proposals flatly reject such an approach.

Third, who should be permitted to provide schooling? How actively should the state regulate providers? Will profit-seeking individuals and firms be permitted to run schools or to manage schools for others? In theory, one extreme option is to require absolute standardization and ensure a public purpose by requiring that all children attend state-run public schools.¹² The alternative at the opposite end of the continuum is to provide little or no supervision, perhaps permitting the state to ensure that students have developed certain specific competencies but playing no other role.

Fourth, what obligations should schools have to ensure opportunity to all students? Are schools obliged to treat all students equally—regardless of aptitude or interest—or are they permitted to enroll and/or sort students as they see fit? If we seek a middle ground between these two extremes, how do we wish to define it? It is important that we not romanticize or demonize certain kinds of schools. For instance, some magnet schools sort students by performance characteristics correlated with race and class,

while many comprehensive public high schools aggressively track students. To suggest that all students are treated identically in these settings is incorrect. The more significant question is whether we really want schools to treat all students identically. In fact, the existence of special education, gifted programs, and others suggests that we do not—that we actually want schools to treat each child in a way that is appropriate to his or her needs. But that implies another dilemma. How much leeway should schools and/or parents have to decide what is appropriate for each child? And how obligated are they to consider the larger social implications of their decisions?

Finally, what components of schooling should we consider to be public? There is relatively little opposition to schools buying textbooks and bus tires from profit-seeking vendors or hiring profit-seeking consultants to lead workshops for teachers. Meanwhile, there is some concern about whether schools should hire vendors to provide school lunches, and fierce opposition to bringing profit-seeking vendors into the core functions of teaching and learning. Do we want to consider everything that goes on in a school building to be a public service? If not, how do we want to distinguish those activities that are public from those that are not?

Focusing on these questions will silence some of the easy claims and broad generalizations that have marked the policy debates and will make for a more reflective and productive discourse. Once we understand what each other means by "public," we may find it easier to work from shared purposes. We may find that the opposite sides are not so far apart as they sometimes imagine once we move past the slogans and focus the conversation on how to best serve all of America's children.

Frederick M. Hess, the author of Revolution at the Margins: The Impact of Competition on Urban School Systems (Brookings 2002) and executive editor of Education Next, is now a Resident Scholar at the American Enterprise Institute. The author would like to thank Andy Rotherham, Sara Mead, Dan Goldhaber, Richard Murnane, Richard Kahlenberg, Rob Reich, Paul Hill, and Patrick Wolf for their suggestions.

Endnotes

¹ The 2002 Phi Delta Kappan/Gallup Poll of the Public's Attitudes Toward the Public Schools found that 86 percent supported the intra-district school choice option included in the 2001 No Child Left Behind Act. Meanwhile, there are now about 2,700 charter schools operating across the nation, a figure that represents a nearly five-fold increase in just the past five years. Charter legislation enjoys broad support in the majority of state legislatures and has consistently enjoyed overwhelming bipartisan support in Congress. See Leal, David, "Congress and Charter Schools," in Robert Maranto et al. (eds.), *School Choice in the Real World: Lessons from Arizona Charter Schools*, Boulder, Colo., Westview, 1999.

² A particularly useful volume for this conversation is Stephen Macedo's *Diversity and Distrust: Civic Education in a Multicultural Democracy*, Cambridge, Mass., Harvard University, 2000.

³ Historically, we also thought of public schools as entities that only the state could open or close, though that definition has been substantially altered by the decision in many states to empower bodies other than state agencies or local school boards to authorize charters. See Vergari, Sandra (ed.), *The Charter School Landscape: Politics, Policies, and Prospects*, Pittsburgh, Pa., University of Pittsburgh, 2002.

⁴ Wolf, Patrick J., "School Choice and Civic Values: A Review of the Evidence," paper delivered at the Annual Meetings of the American Political Science Association, Boston, Mass., August 2002; Campbell, David E., "Bowling Together: Private Schools, Public Ends," *Education Next*, vol. 1, no. 3, p. 55-61, 2001; Wolf, Patrick J., Jay P. Greene, Brett Kleitz, and Kristina Thalhammer, "Private schooling and public tolerance," in Paul E. Peterson and David E. Campbell (eds.), *Charters, Vouchers, & Public Education*, Washington D.C., Brookings Institution, 2001; Greene, Jay P., "Civic Values in Public and Private Schools," in Paul E. Peterson and Bryan C. Hassel (eds.), *Learning from School Choice*, Washington D.C., Brookings Institution, 1998. See also the collection of essays in Diane Ravitch and Joseph P. Viteritti (eds.), *Making Good Citizens*, Yale, Conn., Yale University, 2002.

⁵ See, for instance: Kozol, Jonathan, *Savage Inequalities: Children in America's Schools*, New York, Crown Publishers, 1991; Orfield, Gary and Mindy Kornhaber (eds.), *Raising Standards or Raising Barriers?: Inequality and High Stakes Testing in Public Education*, Washington D.C., Brookings Institution, 2001; Christensen, Carol A., and Sherman Dorn, "Competing Notions of Social Justice and Contradictions in Special Education Reform," *Journal of Special Education*, vol. 31, p. 181-198, 1997; see the essays collected in Losen, Daniel J. and Gary Orfield (eds.), *Racial Inequality in Special Education*, Cambridge, Mass., Harvard University, 2002; Sapon-Shevin, Mara, Jeannie Oakes and Martin Lipton, *Playing Favorites: Gifted Education and the Disruption of Community*, Albany, N.Y., State University of New York, 1994.

⁶ Dewey, John, *The Public and Its Problems*, Athens, Ohio: Ohio University Press, reprinted in 1954.

⁷ See Mill, John Stuart, *On Liberty*, New York, W.W. Norton, 1859, reprinted in 1975; Friedman, Milton, *Capitalism and Freedom*, Chicago, Ill., University of Chicago, 1962.

⁸ Of course, many participants in the debate have a vested interest in sustaining and promoting this confusion. For instance, Amy Stuart Wells and her colleagues have pointed out that the coalition supporting charter schools is composed of disparate elements that may be unable to sustain their partnership in those states where their divergent ambitions become too visible. See Wells, Amy Stuart, Cynthia Grutzik and Sibyll Carnochan, "Underlying Policy Assumptions of Charter School Reform: The Multiple Meanings of a Movement," *Teachers College Record*, vol. 100, p. 513-535, 1999.

⁹ See Renze-Rhodes, Lisa, "More Paying to Attend Choice Public Schools: Washington Twp. Leads State with 89 Cash-Tuition Students at North Central," *Indianapolis Star*, October 19, 2002. Indiana's Washington Township has enrolled 106 cash-tuition students during the 2002-03 year, generating an extra \$402,800 in family payments and prompting a deputy superintendent to observe, "It becomes part of our miscellaneous revenue."

¹⁰ For discussion, see Reich, Rob, *Bridging Liberalism and Multiculturalism in American Education*, Chicago, University of Chicago, 2002.

¹¹ See, for instance, Finn, Chester E., Bruno V. Manno and Gregg Vanourek, *Charter Schools in Action*, Princeton, N.J., Princeton University, 2000.

¹² In fact, this is the logical end point for those who make the most impassioned indictment of choice-based reform. This tack has actually been attempted in the course of American history, most notably by the state of Oregon. Oregon made public schooling mandatory early in this century, essentially outlawing private schooling. The decision was only overturned when the U.S. Supreme Court struck down the statute in its 1925 ruling in *Pierce v. Society of Sisters*. For discussion, see Viteritti, Joseph P., *Choosing Equality: School Choice, the Constitution, and Civil Society*, Washington D.C., Brookings Institution, p. 129-132, 1999.

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